IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17312 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PANCHMAHAL GRAM VIKAS MANDAL - Petitioner(s)
Versus
THE STATE OF GUJARAT - Respondent(s)

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Appearance :
MR VH DESAI for Petitioner(s) : 1,
MR KRUNAL PANDYA, AGP. for Respondent(s) : 1,
DS AFF.NOT FILED (N) for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA

Date : 17/07/2007

ORAL JUDGMENT

1 Rule. Learned Assistant Government Pleader is directed to waive service. By the consent of the learned Advocates appearing on behalf of the respective parties, the matter is taken up for final hearing today

2 This petition has been filed praying for the following reliefs :

> *"15. The petitioner, therefore, prays as under :*
>
> *(A) Your Lordships be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, order or direction, quashing and setting aside the order passed by the respondent dated 28th June 2007, which is at Annexure C to the petition.*
>
> *(B) Pending admission, hearing and final disposal of this petition, Your Lordships be pleased to stay the implementation and/or operation and/or execution of the order passed by the respondent which is at Annexure C to this petition.*
>
> *(C) to pass such other and further orders necessary in the interest of justice".*

3 The facts are not in dispute. The petitioner was granted recognition vide order dated 25.5.2007 to commence Utter Buniyadi Ashram Shala. On 28.6.2007 the respondent authority

cancelled the recognition without granting any opportunity of hearing to the petitioner.

4 The learned Assistant Government Pleader states, under instructions, that an opportunity of hearing was not granted as the petitioner had agreed vide communication dated 20.6.2007 to close down another school in the same village.

5 It is not necessary to enter into any discussion on merits of the issue for the simple reason that admittedly before passing the impugned order dated 28.6.2007 the recognition granted to the petitioner was cancelled without granting an opportunity of hearing to the petitioner. In the circumstances, paragraph No.1 of the impugned order dated 28.6.2007 qua the petitioner is quashed and set aside leaving it open to the respondent authority to take action in accordance with law, if deemed fit, after granting reasonable opportunity of hearing to the petitioner.

6 The petition is allowed accordingly. Rule made absolute with no order as to costs.

Sd/-
(D.A.Mehta, J)

m.m.bhatt